

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 1093 (Application 3887)
Maurice J. Plasse & M. John Plasse and Plasse's Meadow Group, LLC

**ORDER DIRECTING ISSUANCE OF SEPARATE LICENSES
AND REVOCATION OF ORIGINAL LICENSE**

SOURCE: (1) Unnamed Spring and (2) Unnamed Stream tributary to Silver Lake
COUNTY: Amador

WHEREAS:

1. License 1093 was issued to M.J. Plasse, Pierre Plasse, and Alice Plasse (Plasse, et al.), on July 9, 1931 pursuant to Application 3887 and was recorded with the County Recorder July 14, 1931.
2. By letter dated July 18, 2001, the licensee requested division of License 1093 between Plasse, et al. and Plasse Meadow Group, LLC.
3. A request was subsequently received on July 20, 2002, to reassign that portion of License 1093 to be assigned to Plasse et al. to the Plasse Homestead Water Association.
4. The State Water Resources Control Board (SWRCB) has determined that good cause for such change has been shown and the amended licenses do not constitute the initiation of a new right, or injure prior rights, or the public trust resources of the State.
5. The SWRCB standard license terms pertaining to continuing authority, water quality objectives, and protection of endangered species shall be updated or added to the amended license.

NOW, THEREFORE, IT IS ORDERED THAT:

1. License 1093 is hereby replaced and superseded upon the issuance of License 1093A to Plasse Homestead Water Association and License 1093B to Plasse's Meadow Group, LLC.

2. Separate Licenses be issued as follows:

- A. License: 1093A (Application 3887A)
- Owners: Plasse Homestead Water Association
c/o Paul Johnston
Secretary/Treasurer, Agent
14074 Irishtown Road, Space #45
Pine Grove, CA 95665
- Source: (1) Unnamed Spring & (2) Unnamed Stream tributary
to Silver Lake in Amador County
- Use: Domestic
- Direct Diversion: Three thousand (3,000) gallons per day or approximately
Forty six thousandths (.0046) cubic feet per second
- Maximum Amount: 1.12 acre-feet per annum
- Season: June 1st to October 1st of each year
- Point(s) of Diversion: (1) By California Coordinate System of 1927,
Zone 2, North 355,010 and East 2,534,115 being within
the NW¼ of SW¼ of Section 17, T9N, R17E, MDB&M.
- (2) By California Coordinate System of 1927,
Zone 2, North 357,224 and East 2,533,726, being within
the NE¼ of NE¼ of Section 18, T9N, R17E, MDB&M.
- Place of Use: That portion of Parcel 1, located within SW¼ of SW¼ of
Section 8, T9N, R17E, MDB&M, as shown on the map dated
June 4, 2002, on file with the SWRCB.
- B. License: 1093B (Application 3887B)
- Owner: Plasse's Meadow Group, LLC
A California Limited Liability Co.
41 Summit Street
Jackson, CA 95642
- Source: (1) Unnamed Spring and (2) Unnamed Stream tributary to
Silver Lake in Amador County
- Use: Domestic
- Direct Diversion: Five thousand (5,000) gallons per day or approximately
Seventy seven thousandths (.0077) cubic feet per second

Maximum Amount: 1.87 acre-feet per annum

Season: June 1st to October 1st of each year

Point(s) of Diversion: (1) By California Coordinate System of 1927,
Zone 2, North 355,010 and East 2,534,115, being within
the NW¼ of SW¼ of Section 17, T9N, R17E, MDB&M.

(2) By California Coordinate System of 1927,
Zone 2, North 357,224 and East 2,533,726, being within
the NE¼ of NE¼ of Section 18, T9N, R17E, MDB&M.

Place of Use: That portion of Parcel 2, located within the SW¼ of SW¼ and
the SE¼ of SW¼ of Section 8, T9N, R17E, MDB&M, as shown
on the map dated June 4, 2002, on file with the SWRCB.

3. License 1093A and 1093B shall contain all other terms and conditions presently in License 1093 or updated terms to reflect compliance with the SWRCB's policy.

4. The continuing authority condition, shall be updated and read as follows:

Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit/license and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee/licensee without unreasonable draft on the source. Permittee/Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses

protected by the public trust.

5. The water quality objectives condition, shall be updated to read as follows:

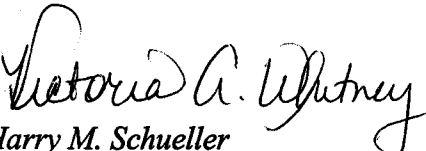
The quantity of water diverted under this permit is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

6. The addition of a condition to the license that reads as follows:

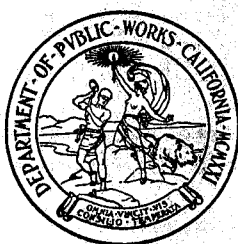
This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

STATE WATER RESOURCES CONTROL BOARD


for *Harry M. Schueller*
Chief Deputy Director

Dated: **JAN 29 2003**



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES

License for Diversion and Use of Water

LICENSE 1093

PERMIT 1948

APPLICATION 3667

THIS IS TO CERTIFY, That **M. J. Plasse, Pierre Plasse and Alice Plasse,**
Jackson, California *has* **made proof to the satisfaction of the Division**
of Water Resources of California of a right to the use of the waters of **Unnamed Spring in Anador County**

tributary of **Silver Lake**

for the purpose of **domestic use**

under Permit **1948**

of the Division of Water Resources and that said right to the use of said waters has
been perfected in accordance with the laws of California, the rules and regulations of the Division of Water Resources
and the terms of the said permit; that the priority of the right herein confirmed dates from **March 5, 1924;**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed **eight thousand (8000) gallons**
per day or approximately twelve thousandths (0.012) cubic foot per second from
about June 1st to about October 1st of each season.

The point of diversion of such water is located **twelve hundred fifty (1250) feet South**
and two hundred thirty (230) feet West from the Northeast corner of Section 18,
T 9 N, R 17 E, M.D.B. & M., being within the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 18.

A description of the lands or the place where such water is put to beneficial use is as follows:

Within the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 8, T 9 N,
R 17 E, M.D.B. & M.

The right to the diversion and use of the water aforesaid hereby confirmed is restricted to the point of
diversion herein specified and to the lands or place of use herein described.

This license is granted and said appropriator takes all rights herein mentioned subject to the terms and conditions set forth in Section 20 of Chapter 586, Statutes 1913, which is as follows:

Sec. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that if, at any time after the expiration of twenty years after the granting of a license, the state, or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license, and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. And the findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulations by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; *and providing, further*, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; *and providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the State of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; *and providing, further*, that when such municipality shall desire to use the additional waters granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

Witness my hand and the seal of the Department of Public
Works of the State of California, this 9
day of July, 1931

EDWARD HYATT
State Engineer

By *Harold Conkling*
Deputy



10/19/40

RECEIVED NOTICE OF ASSIGNMENT TO

12-18-63

RECEIVED NOTICE OF ASSIGNMENT TO

Roy & Maurice Plasse

1/14/69 Records Chgd to show Maurice J. Plasse and
Maurice J. Plasse, Jr. as owners

LICENSE 1093

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

LICENSE
TO APPROPRIATE WATER

ISSUED TO,
M. J. Plasse, Pierre
Plasse & Alice Plasse

DATED July 9, 1931



STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

DIVISION OF WATER RESOURCES

ORDER

Notice of Assignment (Over)

APPLICATION 3887

PERMIT 1948

LICENSE 1093

ORDER ALLOWING CHANGE IN POINT OF DIVERSION

Licensee having established to the satisfaction of the Division of Water Resources that the change in point of diversion under Application 3887, Permit 1948, License 1093 for which petition was submitted on August 5, 1940, will not operate to the injury of any other legal user of water, the Division of Water Resources so finds, and

IT IS ORDERED that permission be and the same is hereby granted to change the point of diversion under said Application 3887, Permit 1948, License 1093 to points of diversion described as follows to wit:

- (1) SOUTH TWELVE HUNDRED FIFTY (1250) FEET AND WEST TWO HUNDRED THIRTY (230) FEET FROM THE NORTHEAST CORNER OF SECTION 18, T 9 N, R 17 E, M.D.B.&M., BEING WITHIN THE NE $\frac{1}{4}$ OF NE $\frac{1}{4}$ OF SAID SECTION 18.
- (2) SOUTH ONE THOUSAND (1000) FEET AND EAST ONE HUNDRED (100) FEET FROM THE WEST 1/4 CORNER OF SECTION 17, T 9 N, R 17 E, M.D.B.&M., BEING WITHIN THE NW $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF SAID SECTION 17.

WITNESS my hand and the seal of the Department of Public Works of the State of California, this nineteenth day of October, 1940.

EDWARD HYATT, STATE ENGINEER

BY Harold Conkling
Deputy State Engineer

6 WEC:MP



OCT 22 40 M.S.E.

3